

## **INITIAL STATEMENT OF REASONS**

### **SECTIONS 600 – 611.**

#### **SPECIFIC PURPOSE OF THE REGULATION**

The proposed regulations will provide clarification for implementing Education Code section 49423. Specifically, the regulations help clarify who may administer medications (or provide assistance with administration of medications) to pupils requiring medication during the regular school day, under what conditions such administration of medications (or rendering of assistance with administration of medications) may occur, and other issues, such as delivery, administration documentation, and disposal of medications.

#### **NECESSITY/RATIONALE**

Education Code section 49423.6 specifically requires the State Board of Education to adopt regulations regarding the administration of medication (or rendering of assistance with administration of medication) in the public schools pursuant to Education Code section 49423. Currently confusion exists regarding the of application of Education Code section 49423, and local education agencies, parents/guardians, and pupils are seeking and would benefit from clarification of the provisions related to the administration of medications (and rendering of assistance with the administration of medications) to pupils during the regular school day.

#### **Section 600. Authorization.**

Consolidates in one place the provisions of Education Code sections 49423 and 49423.6 pertaining to medication administration and rendering assistance with medication administration to pupils during the regular school day.

Note: Authority cited: Section 49423.6 Education Code. Reference: Section 49423, Education Code.

#### **Section 601. Definitions.**

Establishes various definitions (consistent with the requirements of law) necessary for the clear understanding of certain terms used in the regulations.

#### **Section 602. Written Statement of Authorized Health Care Provider.**

**Subsection (a)(1)** - The clear identification of the pupil identifies for whom the medication is authorized.

**Subsection (2)** - The clear identification of the medication identifies what needs to be administered. The name of the medication is important for identification and the reason for administration provides information for expected outcomes.

**Subsection (a)(3)** - The amount or dose of medication prescribed is important for correct administration of the authorized medication.

**Subsection (a)(4)** – The period of time during which the medication is to be taken is important for the correct administration of the authorized medication and is specifically mentioned in Section 49423.

**Subsection (a)(5)** – Other information may be necessary to provide information for expected outcomes, possible adverse reactions to the medication, the need for medical intervention, and to ensure the health and safety of the pupil.

**Subsection (b)** – Provides for delivery of authorized health care provider’s written statement by parent or legal guardian. Authorized health care providers are prohibited from releasing medical information without consent.

**Subsection (c)** - The standard of practice is to renew medication authorizations on a periodic basis and whenever a change in the medication is required. The established time frames of annually and whenever there are changes in medication orders, are consistent with this standard. This provision also helps insure safety for correct medications, dosages, time of administration, and method of administration.

Note: Authority cited: Section 40423.6, Education Code. Reference: Section 49423, Education Code, and Sections 2746.51, 2836.1, 4040, and 4174, Business and Professions Code.

### **Section 603. Written Statement of the Parent or Legal Guardian.**

**Subsection (a)(1)** - A written statement of consent from the parent/guardian for medication administration in school is in compliance with Section 49423. Administration of medication or the rendering of assistance with medication administration to pupils in school must have parent/guardian consent.

**Subsection (a)(2)** - In order to ensure that the medication is administered in a safe and effective manner, it may be necessary to communicate with the authorized health care provider/pharmacist regarding the written statement.

**Subsection (a)(3)** – This section provides that parents and legal guardians be advised of what they must do to enable local education agency employees will do to administer medication or render assistance with medication administration.

**Subsection (a)(4)** – This section provides that parents and legal guardians be advised of what they must do to enable local education agency employees to administer medication or render assistance with medication administration.

**Subsection (a)(5)** – This section provides that parents and legal guardians be advised of how to terminate consent for local education agency employees to administer medication or render assistance with medication administration.

**Subsection (b)** – Some parents may need assistance in the development of the written statement consenting to the administration of medication or assistance in the administration of medication to their children.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

### **Section 604. Administration of Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication.**

**Subsection (a)** - The school nurse, in keeping with applicable standards of professional practice, may administer medication or assist pupils in the administration of medication in school pursuant to Education Code section 49423.

**Subsection (b)** – Other designated school personnel, including other licensed health care professionals, in keeping with applicable standards of professional practice, may administer medication or assist pupils in the administration of medication to the extent they are allowed to do by law.

**Subsection (c)** – Parents and legal guardians have legal authority for their children and may administer medications themselves to their children during the regular school day.

**Subsection (d)** – Parents and legal guardians are responsible for the care provided to their children; therefore, they or one of their designees may administer medications to their children during the regular school day as allowed by law. The local education agency has the right to establish rules governing who may be designated by the parent or legal guardian to ensure the health and safety of all pupils.

**Subsection (d)(3)** – The parents or legal guardians or anyone they designate cannot be a person who for legal reasons cannot come on a school campus or accompany pupils on a field trip: for example, a convicted sex offender.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

#### **Section 605. Self-Administration of Medication.**

This section provides for self-administration of medication by pupils subject to certain conditions. An example of a situation where self-administration might be advisable involves medication that a pupil is competent to take, needs take at irregular times based on self-monitoring of symptoms, and needs to take quickly in order to sustain life or otherwise avoid catastrophic medical consequences.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

#### **Section 606. Delivery and Storage of Medication.**

This section allows local education agencies to consider the relevant issues and ensure that medications are delivered to school and stored in a manner that maintains the medication's effectiveness and is safe for all school staff and pupils. Such policies would not necessarily include medication that is to be self-administered.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

#### **Section 607. Documentation.**

This section provides for documentation of medication administration or the rendering of assistance in medication administration.

**Subsection (a)(b)** - An individual pupil log for medication administration documentation ensures privacy and provides accountability in the appropriate administration of medications (or rendering of assistance with administration of medications).

**Subsection (c)** – This provides for the health and safety of pupils who self-administer medication.

Note: Authority cited: Section 49423.6, Education Code, Reference: Section 49423, Education Code.

#### **Section 608. Deviation from Authorized Health Care Provider's Written Statement.**

Materially deviating from an authorized health care provider's written statement may be detrimental to a pupil's health. This section provides for appropriate reporting of any material deviation upon discovery.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

#### **Section 609. Unused, Discontinued and Outdated Medication.**

This section and its two subdivisions provide for unused, discontinued, and outdated medication to be either returned to the parent/guardian or disposed of in accordance with law.

Note: Authority cited: Section 49423.6, Education Code. Reference: Section 49423, Education Code.

**Section 610. Applicability of this Article.**

This section clarifies that the regulations do not create a state-mandated local program nor do the regulations affect in any way the statutes, regulations or standards of practice governing any California licensed health care professional and the statutes and regulations governing unlicensed individuals in regard to medication administration or the provision of assistance to pupils with medication administration. This section further clarifies that the regulations do not affect statute in regard to the use of epinephrine auto-injectors nor do the regulations affect the content or implementation of properly prepared individualized education program plans or Section 504 Accommodation Plans.

NOTE: Authority cited: Section 49423.6, Education Code. Reference: Sections 49414, 49423, and Part 30 (commencing with 56000), Education Code.

**Section 611. Issuance and Periodic Updating of Advisory.**

This section allows the California Department of Education, with the approval of the State Board of Education, to develop, issue and update non-binding advisory information on the medication administration.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 33308.5, Education Code.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.**

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

**REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.**

In this case, statute requires the State Board to adopt regulations. Therefore, consideration of alternatives to the regulations is not applicable.

**REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.**

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.**

The proposed regulations do not affect businesses in California and, therefore, can have no significant adverse economic impact on any business. No assertion to the contrary has been made.